

MEMORANDUM OF AGREEMENT BETWEEN
THE STATE OF NEW HAMPSHIRE
AND
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

I. GENERAL

This Memorandum of Agreement (hereinafter "Agreement") establishes policies, responsibilities, and procedures pursuant to 40 CFR 271.8 for the State of New Hampshire hazardous waste program (hereinafter "State program") authorized under Section 3006 of the Resource Conservation and Recovery Act (hereinafter "RCRA or "the Act") of 1976 (42 USC 6901 et seq.), as amended (Public laws 94-580, 96-482, 98-616), and the United States Environmental Protection Agency Regional Office for Region I. This Agreement further sets forth the manner in which the State and EPA will coordinate in the State's administration and enforcement of the State program and, pending State authorization, EPA's administration of the provisions of the Hazardous and Solid Waste Amendments of 1984 (HSWA). For purposes of this Agreement, references to "RCRA" include HSWA.

This Agreement is entered into by the Director of the New Hampshire Department of Environmental Services, Waste Management Division (hereinafter "the State"), the Director of the New Hampshire Department of Health and Human Services, Division of Public Health Services (hereinafter "DPHS"), and the Regional Administrator, EPA Region I (hereinafter "Regional Administrator" or "EPA"). The New Hampshire Department of Environmental Services, Waste Management Division is the lead agency for implementing the State program, and for coordination and communication between the State and EPA. DPHS agrees to abide by the Memorandum of Understanding concerning radioactive wastes mixed with hazardous wastes as its sole responsibility under this MOA.

Nothing in this Agreement shall be construed to restrict in any way EPA's authority to fulfill its oversight and enforcement responsibilities under RCRA. Nothing in this Agreement shall be construed to contravene any provision of 40 CFR Part 271.

The parties will review the Agreement jointly at least once a year (and other times as appropriate) during preparation of the annual State grant work program, in connection with grant funding under section 3011 of RCRA.

This Agreement supplants the Agreement which was effective on January 16, 1985 and any subsequent amendments or revisions. This Agreement may be modified upon the initiative of either party in order to ensure consistency with State program modifications

made or for any other purpose mutually agreed upon. Any revisions or modifications to this Agreement must be in writing and must be signed by the State and the Regional Administrator. This Agreement will remain in effect until such time as State program authorization is withdrawn by or is voluntarily transferred to EPA according to the criteria and procedures established in 40 CFR 271.22 and 40 CFR 271.23.

This Agreement shall be executed by the State, DPHS, and the Regional Administrator and shall become effective at the time the State's authorization takes effect, which shall be the date set out in the Federal Register notice of the Regional Administrator's decision to grant authorization to the State.

II. POLICY STATEMENT

Each of the parties to this Agreement is responsible for ensuring that its obligations under RCRA are met. Upon granting of final authorization by EPA, the State assumes primary responsibility for implementing the authorized provisions of the RCRA hazardous waste program within its boundaries. EPA retains its responsibility to ensure full and faithful execution of the requirements of RCRA, including direct implementation of HSWA in the event the State is not authorized to act. The State and the Regional Administrator agree to maintain a high level of cooperation and coordination between their respective staffs in a partnership to assure successful and effective administration of the State program.

Section 3006(g) of RCRA provides that hazardous waste requirements and prohibitions promulgated pursuant to HSWA are applicable in authorized States at the same time that they are applicable in unauthorized States with the exception of Section 3006(f), Availability of Information, which cannot be implemented by EPA in authorized States. While EPA retains responsibility for the direct implementation of those provisions of HSWA which the State is not authorized to implement, it is the intention of EPA and the State to coordinate the implementation of such provisions to the greatest degree possible.

EPA will oversee implementation of the authorized State program in order to ensure full execution of the requirements of RCRA, to promote national consistency in implementation of the hazardous waste program, to allow EPA to report to the President and Congress on the achievements of the hazardous waste program, and to encourage States and EPA to agree on desirable technical support and targets for joint efforts to prevent and mitigate environmental problems associated with the improper management of hazardous wastes. Oversight will be accomplished by EPA through written reporting requirements, permit overview, compliance and enforcement overview, and annual review of the State's programs.

DES, within its authority, will seek to identify and to advance any effort or implement any directive whose purpose it is to ensure uniform treatment of all New Hampshire citizens with respect to matters involving public health and the environment. Accordingly, DES shall

conduct its hazardous waste management program, policies and activities in a manner that ensures that such program, policies and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies and activities, because of their race, color, national origin or economic status.

III. STATE PROGRAM REVIEW

A. General

The Regional Administrator will assess the State administration and enforcement of the hazardous waste program on a continuing basis for equivalence and consistency with RCRA, this Agreement, and all applicable Federal requirements and policies, and for adequacy of enforcement. This assessment will be accomplished by EPA's review of information submitted by the State in accordance with this Agreement and the State grant work program, permit overview, compliance and enforcement overview, and annual review of State program activities.

The Regional Administrator may also consider, as part of this regular assessment, written comments about the State's program administration and enforcement that are received from regulated persons, the public, and Federal, State and local agencies. Copies of any such comments received by the Regional Administrator will be provided to the State.

To ensure effective program review, the State agrees to allow EPA access to all files and other information requested by the Regional Administrator or his or her designee and deemed necessary by EPA for reviewing State program administration and enforcement.

Review of New Hampshire Department of Environmental Services, Waste Management Division files may be scheduled at quarterly intervals. Program review meetings between the State and the Regional Administrator or their assignees will be scheduled at reasonable intervals not less than annually to review specific operating procedures and schedules, to resolve problems and to discuss mutual program concerns.

These meetings will be scheduled at least fifteen days in advance unless agreed to differently. A tentative agenda for the meeting will be prepared by EPA.

B. Identification of Priority Activities

The State and EPA agree to develop, on an annual basis as a part of the State grant work program, criteria for prioritizing activities, including activities regarding handlers of hazardous waste. These criteria will be based on guidance issued by EPA in the annual Agency Operating Year Guidance and other guidance documents as may be appropriate,

and will serve to identify those activities which should receive the highest priority during the grant period.

Examples of activities which will be considered high priority will include, but not be limited to, facilities to be inspected, facilities to be permitted, and enforcement against facilities with known or suspected groundwater contamination.

IV. INFORMATION SHARING

A. General

As the national hazardous waste program matures, the respective roles and responsibilities in this State/Federal partnership will become more clear. As the respective information needs of the State and EPA evolve, changes to this section of the Agreement may be appropriate. During the annual review of this Agreement, the State and the Regional Administrator will carefully examine the following information sharing provisions for needed revision.

The State and EPA agree to abide by the Resource Conservation Recovery Information System (RCRIS) Memorandum of Understanding with respect to implementation of record designations and information sharing for the following: notifications and Part A information, permitting, compliance monitoring and enforcement, and biennial report data. The State and EPA agree to maintain confidentiality of any reports received from the other relating to ongoing investigations and enforcement actions.

B. EPA

1. EPA will keep the State informed of the content and meaning of Federal statutes, regulations, guidelines, standards, policy decisions, directives, and any other factors that affect the State program. EPA will also provide general technical guidance to the State. EPA will share with the State any national reports developed by EPA from the data submitted through State reporting requirements.
2. The State and EPA have agreed to a joint permitting process (see Section V.D. of this Agreement). Under this process the State and EPA have established policies and procedures by which each will pursue their respective and/or joint responsibilities under HSWA.

The State and EPA agree to the sharing of information as specified under "V.D. Joint Permitting Process" and the annual State grant work program. Specifically included shall be the procedures for sharing and coordinating the exchange of information on the following:

- a. Part A and Part B permit applications, whether received prior to the effective date of this Agreement or subsequent to the effective date of this Agreement and whether first received by the State or EPA;
 - b. Such other information necessary to support the foregoing information;
 - c. Copies of draft permits, proposed permit modifications, public notices;
 - d. Copies of final permits and permit modifications; and
 - e. Notices of permit denials.
3. EPA agrees to make available to the State copies of any reports and data resulting from compliance inspections within sixty days of completion of the inspections.
4. EPA agrees to provide the State with notification information from EPA Form 8700-12 obtained prior to the effective date of this Agreement if such information has not already been provided to the State. The State and EPA shall agree on the format in which the information will be provided and the information will be provided within thirty days of the effective date of this Agreement. EPA will also forward, within 10 days of receipt, notification information submitted by persons in the State who file such forms with EPA after the effective date of this Agreement.
5. Pursuant to the Memorandum of Understanding regarding the co-implementation of RCRIS, the State assumes responsibility for assigning EPA ID numbers. EPA agrees to provide, by the first of each month, the State with unassigned EPA ID numbers as needed to allow the State to assign said numbers to generators, transporters, and owners and operators of hazardous waste treatment, storage and disposal facilities submitting notifications.
6. EPA agrees to transfer to the State any pending Part A and Part B hazardous waste management facility permit applications originally submitted to EPA pursuant to 40 CFR 270.10 by facilities located in the State and which have not already been transferred to the State, together with all pertinent file information. Pertinent file information includes applications

(including accompanying narratives, plans, maps, etc.), draft permits, public notices, administrative notices, fact sheets and correspondence. Such material will be provided within thirty days after the effective date of this agreement and in accordance with any arrangements the State and the Regional Administrator may make regarding the priority of transfer.

7. EPA will also provide to the State, within five days of receipt, Part A and Part B permit applications submitted directly to EPA by persons in the State after the effective date of this Agreement.
8. EPA will make available to the State other relevant information as requested which the State needs to implement its approved program. Information provided to the State will be subject to the terms of 40 CFR Part 2.

C. State

1. The State agrees to comply with 40 CFR 270.5, *Noncompliance and program reporting by the Director*. The State also agrees to inform the Regional Administrator in advance of any proposed program changes which would affect the State's ability to implement the authorized program. Program changes of concern include modification of the State's legal authorities (i.e., statutes, regulations and judicial or legislative actions affecting those authorities), modifications of Memoranda of Agreement or Understanding with other agencies, and modifications of resource levels (i.e., available or budgeted personnel and funds). The State recognizes that program revisions must be made in accordance with the provisions of 40 CFR 271.21, and that until approved by EPA, revisions are not authorized as RCRA Subtitle C requirements.
2. Annually, through development of the State grant work program, EPA and the State will agree on the type and frequency of reports the State will make in order for EPA to maintain oversight of the implementation of the State's authorized program. Such reporting shall include, but not be limited to, the following:
 - a. Compliance monitoring and enforcement information;
 - b. Information indicating the status of the State's permitting, closure, post-closure, and groundwater monitoring and corrective action activities; and
 - c. Various reports designed to accurately describe the status of the State's authorized program including biennial reports summarizing the quantities and types of hazardous waste generated, transported, treated, stored and disposed in the State.

3. The State agrees by the 10th of each month to forward to EPA copies of each notification form received the preceding month including the assigned EPA ID numbers. The State agrees to provide to EPA copies of subsequent notification information received and entered into RCRIS.
4. For those hazardous waste handlers identified as major facilities for EPA permit overview, the State agrees to provide EPA with the following information within the time frames described below:

Copies of facility permit applications, Within ten (10) working days of receipt revisions and additions

Copies of draft permits, proposed permit modifications, public notices	Within five (5) working days of completion
------------------------------------------------------------------------	--------------------------------------------

Copies of final permit and permit modifications	Within five (5) working days of issuance
-------------------------------------------------	------------------------------------------

5. The State agrees to provide EPA with a copy of any decisions regarding requests made by hazardous waste handlers to change their classifications (e.g., requests to be deleted as generators but to retain facility status) and facility requests to make on-site changes prior to permit issuance (e.g., requests to handle additional wastes not identified on the facility's original notification and RCRA Part A Permit Application.)
6. The State agrees to provide EPA with copies of reports on data resulting from any compliance inspection and subsequent enforcement actions, when EPA requests such copies.
7. The State agrees to provide any pertinent information requested by the Regional Administrator or his or her designee within a mutually agreed upon time frame, as necessary for EPA to carry out its oversight responsibilities. Unless otherwise agreed upon, the above information shall be sent to:

Matthew R. Hoagland, Chief
ME, NH & VT Waste Regulation Section
United States Environmental Protection Agency, Region I
J.F.K. Federal Building, HPR-CAN1
Boston, Massachusetts 02203-2211

8. The State agrees to provide EPA with a copy of each State decision regarding waivers at the time such requests are granted. The State also agrees to provide EPA with copies of each State decision regarding delisting petitions for state listed wastes at the time such delistings are granted.

D. Site Visits

EPA is responsible for maintaining reliable national data on hazardous waste management. This data is used to report to the President and Congress on the achievements of the hazardous waste program and to support EPA's regulatory development efforts. Whenever EPA determines that it needs to obtain certain information, EPA will first seek to gain this information from the State. The State of New Hampshire agrees to supply the Regional Administrator with this information if readily available and as resources allow. If the State is unable to provide the information or if it is necessary to supplement the State information, EPA may conduct a special survey or perform information collection site visits after notifying the State. EPA will share with the State any national reports developed by EPA as a result of such information collection.

E. Emergency Situations

Upon receipt of any information that the handling, storage, treatment, transportation, or disposal of hazardous waste is endangering human health or the environment within the state of New Hampshire, the party in receipt of such information shall immediately notify by telephone the other party(ies) to this Agreement of the existence of such situation.

The EPA contact is: Don Berger, Chief
Emergency Planning & Response Branch
Environmental Services Division
U.S. Environmental Protection Agency
Lexington, MA 02173

Working hours: (617) 860-4368

Non-working hours: (617) 360-4361
(24 Hour Service)

The State contact is: Michael Galuszka, Supervisor
Special Investigations Section
Waste Management Division
NH Department of Environmental Services
Concord, NH 03301

Working hours: (603) 271-3899

Non-working hours: NH Department of Safety
(24 Hour Service) 1-800-346-4009

F. Confidentiality

1. Any information obtained or used in the administration of the State program shall be available to EPA upon request without restriction. If the information has been submitted to the State under a claim of confidentiality, the State must submit that claim to EPA when providing information. Any information obtained from a State and subject to a claim of confidentiality will be treated in accordance with the regulations in 40 CFR Part 2.
2. EPA agrees to furnish to the State information in its files which is not submitted under a claim of confidentiality and which the State needs to implement its program. Subject to the conditions in 40 CFR Part 2, EPA will furnish the State information submitted to EPA under a claim of confidentiality which the State needs to implement its program. All information EPA agrees to transfer to the State will be transferred in accordance with the requirements of 40 CFR Part 2. EPA will notify affected facilities when such information is sent to the State.

V. PERMIT ISSUANCE

A. EPA Permitting

Upon authorization of the State program, EPA will suspend issuance of Federal permits for hazardous waste treatment, storage, and disposal facilities for which the State is receiving authorization.

Whenever EPA adds permitting standards for processes not currently covered by Federal regulations, EPA will process and enforce RCRA permits in the State in the new areas until the State receives final authorization for them. At the time the State program is approved in the new areas, EPA will suspend issuance of Federal permits in the State. EPA will also transfer any pending permit applications, completed permits, or pertinent file information to the State within thirty days of the approval of the State program, in conformance with the conditions of this Agreement.

The State and EPA have agreed to a joint permitting process (see section V.D. of this Agreement) for the joint processing and enforcement of permits for those provisions of HSWA for which the State does not have authorization. As the State receives authorization for additional provisions of HSWA, EPA will suspend issuance of Federal permits in the State for those provisions.

The State and the Regional Administrator agree to meet or confer whenever necessary to resolve a disagreement between their staffs on the terms of any RCRA permit to be issued by the State.

B. EPA Overview of State Permits

While EPA may comment on any permit application or draft permit, EPA's overview function will focus primarily on those facilities identified by the State and EPA in the State's Multi-Year Permit Strategy, annual State Grant Work Program and the State's Program Description.

EPA may comment in writing on any draft permit or proposed permit modification, whether or not EPA commented on the permit application, within forty-five days of its receipt. Where EPA indicates in a comment that issuance, modification, reissuance, termination or denial of the permit would be inconsistent with the approved State program, EPA shall include in the comment:

- a. A statement of the reasons for the comment (including the section of the State law or regulations that supports the comment), and
- b. The actions that should be taken by the State in order to address the comment (including the conditions which the permit would include if it were issued by EPA). EPA shall send a copy of its written comment to the permit applicant.

EPA shall withdraw such comments when satisfied that the State has met or refuted its concerns and shall also provide the permit applicant with a copy of such withdrawal.

Under section 3008 (a) (3) of RCRA, EPA may terminate a State-issued permit in accordance with the procedures of 40 CFR Part 124, Subpart E, or bring an enforcement action in accordance with the procedures of 40 CFR Part 22 in the case of a violation of a State program requirement. In exercising these authorities, EPA will observe the conditions established in 40 CFR 271.19(e).

C. State Permitting

The State is responsible for expeditiously drafting, circulating for public review and comment, issuing, modifying, reissuing and terminating RCRA permits for those hazardous waste treatment, storage and disposal facilities contained in the authorized provisions of the State's program and shall do so in a manner consistent with RCRA as amended by HSWA, this agreement, all applicable Federal requirements, and the State's Program Description. The State agrees to issue, modify and reissue all permits contained in the authorized portions of the State's program in accordance with RSA 147-A and to include as permit conditions all applicable provisions of Chapters Env-Wm 100 through 1000. This agreement also applies to permits issued after final authorization but for which the processing may have begun before final authorization.

The State agrees that any compliance schedules contained in permits it issues will require compliance with applicable standards as soon as possible.

The State agrees to consider all comments EPA makes on permit applications and draft permits. The State will satisfy or refute EPA's concerns on a particular permit application, proposed permit modification, or draft permit in writing before issuing the permit or making the modification.

In addition to other permit information, the State agrees to provide EPA with copies of requests for waivers included as part of a permit application at the time such requests are received, and prior to the time State decisions on such requests are made.

D. Joint Permitting Process

Pursuant to section 3006(g) (1), and in accordance with the Hazardous and Solid Waste Amendments of 1984, EPA has the authority to issue or deny permits or portions of permits to facilities in New Hampshire for the requirements and prohibitions in or stemming from HSWA, until the State's program is amended to reflect those requirements and prohibitions and authorization is received for the portion or portions of the program.

EPA and New Hampshire hereby establish this joint permitting process for the issuance of RCRA permits in New Hampshire. This joint permitting process is established in accordance with Section 3006 (c) (3) of RCRA. The details of the joint permitting process shall be incorporated into the annual State grant work program. The duties and responsibilities of EPA and the State for joint permitting shall also be specified in the annual State grant work program.

The details of the joint permitting process as contained in the State grant work program shall be reviewed and revised as often as necessary, but no less often than annually to assure its continued appropriateness.

Upon authorization of the State for any of the provisions of HSWA, the specifics of the Joint Permitting, as set in the annual State grant work program, shall be amended to reflect the authorization. Amendment of this Memorandum of Agreement or the execution of a separate Memorandum of Agreement may be required for authorization of any of the provisions of HSWA.

VI. PERMIT ADMINISTRATION

A. EPA

EPA will administer the RCRA permits or portions of permits it has issued to facilities in the State until they expire or are terminated. EPA will be responsible for enforcing the terms and conditions of the Federal permits, while they remain in force. When the State either incorporates the terms and conditions of the Federal permits in State RCRA permits

or issues State RCRA permits to those facilities, EPA will terminate those permits pursuant to 40 CFR Part 270 and 40 CFR 124.5 and rely on the State to enforce those terms and conditions.

EPA issued a HSWA Corrective Action Permit to W.R. Grace on September 29, 1989 for a period of five years. The permit was transferred to Hampshire Chemical on December 18, 1992. W.R. Grace, however, retains financial responsibility for the completion of the RCRA Facility Investigation and the Corrective Measures Study. On August 8, 1994, Hampshire Chemical Corporation submitted a renewal application for this permit to EPA and, therefore, in accordance with 40 CFR 270.51, the federally-issued permit will remain in effect after its 9/24/94 expiration date. Once the State receives authorization for Corrective Action and issues a new permit to Hampshire Chemical Corporation which includes all terms and conditions equivalent to the federally-issued corrective action permit, the EPA HSWA Corrective Action Permit will be terminated pursuant to 40 CFR 270.

B. State

The State agrees to review all hazardous waste permits which were issued under State law prior to the effective date of this Agreement and to modify or revoke and reissue such permits as necessary to require compliance with the amended State Program pursuant to RSA 147-A and Chapters Env-Wm 100 through 1000. The State agrees to modify or revoke and reissue these State permits as RCRA permits in accordance with the schedule agreed upon in the State Grant Work Program and in accordance with applicable State statutory and regulatory requirements.

On December 3, 1992, the State transferred the W.R. Grace State-issued hazardous waste storage permit to Hampshire Chemical Corporation after receiving comments from the public and holding a public hearing in November 1992 on the proposed transfer. This State-issued permit will expire on September 30, 1995. The State, after receiving authorization for Corrective Action, will incorporate all the terms and conditions equivalent to the federally-issued corrective action permit in its renewal of the State-issued hazardous waste storage permit, on or about September 30, 1995.

VII. COMPLIANCE MONITORING AND ENFORCEMENT

A. EPA

Nothing in this Agreement shall restrict EPA's right to inspect any hazardous waste generator, transporter or facility, or bring enforcement action against any person believed to be in violation of the State or Federal hazardous waste program, or believed to have a release of hazardous waste. Before conducting an inspection of a generator, transporter or facility, the Regional Administrator will normally give the State at least seven days notice of the intent to inspect in accordance with 40 CFR 271.8 (b) (3) (i). If the State performs a compliance inspection and submits to EPA a report and data relevant thereto within that

time, no EPA inspection will be made, unless the Regional Administrator deems the State report and data to be inadequate. In case of an imminent hazard to human health and the environment, the Regional Administrator may shorten or waive the notice period.

The frequency of EPA oversight and training inspections will be specified in the annual State grant work program. EPA will negotiate on an annual basis with the State the number or percentage of the State's compliance inspections on which EPA will accompany the State.

EPA may take enforcement action against any person determined to be in violation of RCRA in accordance with Section 3008(a)(2) of RCRA. EPA will take enforcement action upon determining that the State has not taken timely and appropriate enforcement action or upon request by the State.

Prior to issuing a compliance order under section 3008(a), EPA will give notice to the State. EPA also retains its rights to issue orders and bring actions under sections 3008 (h), 3013, and 7003 of RCRA, and any other applicable Federal statute.

After notice to the State, EPA may take action under section 3008 of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition of that permit. In addition, EPA may take action under section 3008 of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition that the Regional Administrator, in commenting on that permit application or draft permit, stated was necessary to implement approved State program requirements, whether or not that condition was included in the final permit.

B. State

The State agrees to carry out a timely and effective program for monitoring compliance by generators, transporters, and facilities with applicable program requirements (see 40 CFR 271.15). As part of this program, the State will conduct inspections to assess compliance with generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements. Compliance monitoring activities and priorities will be specified in the State/EPA Enforcement Agreement and the annual State grant work program and shall be consistent with all applicable Federal requirements and with the State's Program Description.

The State agrees to take timely and appropriate enforcement action as defined in the State/EPA Enforcement Agreement or annual State grant work program against all persons in violation of generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements, including violations detected by State or Federal compliance inspections. The State agrees to retain all records for at least three years unless there is an enforcement action pending. In that case, all records will be retained until such action is resolved.

The State will maintain procedures for receiving and ensuring proper consideration of information about violations submitted by the public, and will publish notice of and provide at least 30 days for public comment on all proposed settlements of civil enforcement actions, except in cases where a settlement requires some immediate action (e.g., cleanup) which if otherwise delayed could result in substantial damage to either public health or the environment. .

New Hampshire civil practice, as established by case law, freely allows the right of a party to intervene in pending litigation. The State will not oppose intervention by any party in an action taken under RSA 147-A where the party seeking to intervene meets the standards for intervention under state law.

C. Regulation Changes

The New Hampshire Hazardous Waste Rules, Env-Wm 110, 211-216, 351-353, & 400-1000, adopted August 24, 1994, have been found to contain three (3) errors, which the State has agreed to correct as soon as possible, but no later than September 30, 1995, the end of the next federal fiscal year.

1. The State agrees to seek amendment to Env-Wm 802.02 (a)(1) to substitute the term "industrial ethyl alcohol" for the term "industrial alcohol", in order to ensure that the State regulations are equivalent to the federal regulations for industrial ethyl alcohol contained at 40 CFR 261.6 (a)(3)(i). However, EPA and the State acknowledge that the unqualified term "alcohol" is generally understood to mean "ethyl alcohol". (See: Condensed Chemical Dictionary, Van Nostrand & Reinhold, 8th ed., 1971.)
2. The State agrees to seek amendment to Env-Wm 708.02 (g) to substitute a reference to "Env-Wm 353.09 (b)" for the reference to "Env-Wm 353.09 (h)(10)", to ensure that the State regulations are equivalent to the federal regulations for this requirement. (The current citation does not exist.)
3. The State agrees to seek amendment to Env-Wm 110.01 (b)(6), definition of "aquifer", to substitute the term "groundwater" for the term "water". However, EPA and the State acknowledge that the use of the term "water" in reference to an aquifer generally refers to groundwater. Therefore, although the State agrees to make this change, the current language does not impact the State's equivalency for this requirement.

VIII. AVAILABILITY OF INFORMATION

A. General

Section 3006(f) of RCRA provides that States may be authorized by the Administrator under this section if the State program provides for the public availability of information obtained by the State regarding facilities and sites for treatment, storage and disposal of hazardous waste; and that such information is available to the public in substantially the same manner, and to the same degree, as would be the case if the Administrator were carrying out the provisions of this subtitle in the State.

B. Requests for Information

1. Pursuant to the Federal Freedom of Information Act (FOIA), 5 U.S.C. 552(a) (2), the State agrees to make certain materials routinely available without a formal FOIA request. Examples of these materials are final opinions or orders in case adjudication, State regulations, statements of Agency policy, and administrative staff manuals affecting the public. In addition, records prepared for routine public distribution will also be made available. Examples of such records are press releases, copies of speeches, pamphlets, and educational materials.
2. The State agrees to make reasonable efforts to assist a requestor in identifying records being sought, and to help the requestor formulate his or her request.
3. If a request for information is denied, the State agrees to provide the requestor the basis for the denial and to notify the requestor of State judicial (or, if they exist, administrative) procedures, including statutes of limitation.
4. The State agrees to make the fullest possible disclosure of records to the public, subject to any of the exemptions under the Federal FOIA recognized by the State and under NH RSA 91-A.
5. A reduction or waiver of fees will be considered in connection with each request from a representative of the press or other communication medium, or from a public interest group. The State agrees to reduce or waive the fee if it determines that a reduction or waiver of the fee is in the public interest because furnishing the information can be considered as primarily benefitting the general public.

C. Confidentiality of Business

In accordance with Section 91-A:4 of the State Right-to-Know Law, within five business days of receiving a request for access to records which are subject to a pending confidentiality claim, the State will provide the requestor with written acknowledgment of the information request, notification of the pending confidentiality claim, and a statement

of the time reasonably necessary to make a final determination as to the confidentiality of the records.

D. Oversight

1. The State agrees to keep a log of denials of requests for information (or a file containing copies of denial letters sent to requestors) which will be made available to EPA during the State review.
2. The State agrees to keep EPA fully informed of any proposed modifications to its basic statutory or regulatory authority, its forms, procedures, or priorities, as applied to Section 3006(f).

**U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION I**

BY:		DATE:	
	John P. DeVillars Regional Administrator		

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
WASTE MANAGEMENT DIVISION**

BY:		DATE:	
	Philip J. O'Brien, Ph.D. Director		

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH SERVICES**

BY:		DATE:	
	Russell C. Jones, M.D., M.P.H. Medical Director (Acting Director)		